

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

Anthony James Moore,)	
)	
Plaintiff,)	ORDER ESTABLISHING DEADLINE
)	TO RESPOND TO PLAINTIFF'S
vs.)	MOTION FOR SUMMARY JUDGMENT
)	AND DENYING PLAINTIFF'S MOTION
)	FOR DEFAULT JUDGMENT
Timothy Schuetzle, et al.,)	
)	Case No. 1:06-cv-079
Defendants.)	

Before the Court is Plaintiff Anthony James Moore's "Motion for Order for Summary Judgment Under Rules of Civil Procedure 56" filed on December 19, 2006. Also before the Court is Moore's "Motion for Order for Judgment by Default Under Rules of Civil Procedure 55" filed on January 16, 2007.

On October 2, 2006, Moore initiated this action. The Court then undertook the task of completing an initial screening pursuant to 28 U.S.C. § 1915A. Moore subsequently sought leave to file two amended complaints which delayed the completion of the initial review process. See Docket Nos. 3 & 16. On December 14, 2006, the Court ordered that Moore's second amended complaint along with a copy of the Court's order be served on the Defendants. On December 19, 2006, a copy of the second amended complaint and the Court's December 14, 2006, Order, along with a Request for Waiver of Service of Summons, were sent to the Defendants.

On the same day, December 19, 2006, Moore filed a motion for summary judgment. On January 22, 2007, the Defendants filed a response and argued that the motion was untimely. In the alternative, the Defendants requested that they be allowed sixty (60) days provided by the rules to file an answer and an additional thirty (30) days in which to file a response to the merits of the summary judgment motion. The Defendants also contended that Moore's motion for default judgment should be dismissed.

The Court finds that it need not determine whether Moore's motion for summary judgment was timely filed. Rule 56(f) of the Federal Rules of Civil Procedure allows the Court to order a continuance to allow a party to respond to a motion for summary judgment. This dispute is in the early stages of litigation. The Defendants' answer is not yet due. The Court has yet to issue a scheduling order pursuant to Rule 26 of the Federal Rules of Civil Procedure. After a careful review of the entire file, the Court finds that the Defendants' request to extend the time to respond until March 19, 2007, is reasonable and appropriate under the circumstances. The Court will allow the Defendants until March 19, 2007, to prepare a response to the merits of Moore's motion for summary judgment.

As to Moore's pending motion for default judgment, the Court finds that Moore has failed to establish that he is entitled to default judgment. The Court **DENIES** Moore's Motion for Default Judgment. (Docket No. 39).

IT IS SO ORDERED

Dated this 6th day of February, 2007.

/s/ Daniel L. Hovland

Daniel L. Hovland, Chief Judge
United States District Court